

1 BILL NO. S-83-04- 28

2 SPECIAL ORDINANCE NO. S- 86-83

3 AN ORDINANCE approving a Contract
4 by the City of Fort Wayne by and
5 through its Board of Public Works
6 and Gaines Construction, for con-
7 structing curbs and sidewalks for
8 Improvement Resolution #5961-82.

9 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
10 THE CITY OF FORT WAYNE, INDIANA:

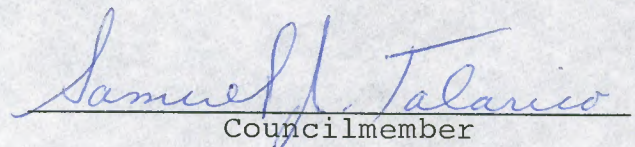
11 SECTION 1. That a certain Contract dated April 13,
12 1983, between the City of Fort Wayne, Indiana, by and through its
13 Mayor and the Board of Public Works, and Gaines Construction, for:

14 Improvement Resolution #5961-82 for con-
15 structing curbs and sidewalks as follows:
16 (1) FRANCIS - both sides from Lewis on north
17 to Hayden on south; (2) HUGH - both sides
18 from Francis on west to Harmar on east;
19 ALTERNATE: (1) ELIZA - both sides from
20 Francis on west to Harmar on east;

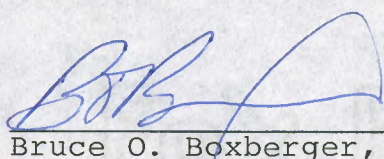
21 involving a total cost of Fifty-Nine Thousand Two Hundred Forty-
22 Eight and 80/100 Dollars (#59,248.80).

23 SECTION 2. A copy of said Contract is on file in the
24 Office of the Board of Public Works, and is available for public
25 inspection.

26 SECTION 3. That this Ordinance shall be in full force
27 and effect from and after its passage, and any and all necessary
28 approval by the Mayor.

29 
Councilmember

30 APPROVED AS TO FORM
31 AND LEGALITY

32 
Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Talarico, seconded by Gia Quinta, and duly adopted, read the second time by title and referred to the Committee Public Works (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATE: 4-26-83

Nadja Estroff
CITY CLERK

Read the third time in full and on motion on by Talarico, seconded by Gia Quinta, and duly adopted, placed on its passage. PASSED ~~(LOST)~~ by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>BRADBURY</u>	<u>✓</u>	<u>1</u>	<u> </u>	<u> </u>	<u> </u>
<u>BURNS</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>EISBART</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>GIAQUINTA</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>SCHMIDT</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>SCHOMBURG</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>SCRUGGS</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>STIER</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>TALARICO</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

DATE: 5-10-83

Nadja Estroff
acting CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL)

(APPROPRIATION) ORDINANCE (RESOLUTION) NO. A-86-83

on the 10th day of May, 1983

ATTEST:

(SEAL)

Nadja Estroff
CITY CLERK

Ray A. Ebert
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 11th day of May, 1983, at the hour of 11:30 o'clock A. M., E.S.T.

Nadja Estroff
acting CITY CLERK

Approved and signed by me this 12th day of May, 1983, at the hour of 1 o'clock P. M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR. - MAYOR

CONTRACT

This Agreement, made and entered into this 13 day of April, 1983

by and between ----- GAINES CONSTRUCTION -----

----- 217 W. WASHINGTON CENTER ROAD, FORT WAYNE, INDIANA 46825 -----

hereinafter called "Contractor" and the City of Fort Wayne, Indiana, a municipal corporation, hereinafter called "City," under and by virtue of an act of the General Assembly of the State of Indiana, entitled "An Act Concerning Municipal Corporations," approved March 6, 1905, and all amendatory and supplementary acts thereto, WITNESSETH: That the Contractor covenants and agrees to improve by constructing curb and sidewalk as follows: (1) Francis - Both sides from Lewis on north to Hayden on south, (2) Hugh - Both sides from Francis on west to Harmar on east, ALTERNATE: (1) Eliza - Both sides from Francis on west to Harmar on east.

by grading and paving the roadway to a width of XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX feet with XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

upon a foundation and with curbing as fully set out in the specifications hereinafter referred to, in a good and workmanlike manner and to the entire satisfaction of said City, in accordance with Improvement Resolution No. 5961-82 attached hereto and by reference made a part hereof.

At the following prices:

Concrete Removal	Two dollars and no cents per square yard	2.00
Curb Removal	One dollar and no cents per lineal foot	1.00
Tree Removal	One hundred and fifty dollars and no cents per each	150.00
4" Sidewalk	One dollar and forty cents per square foot	1.40
6" Wingwalk w/ramp	One dollar and sixty-five cents per square foot	1.65
8" Drive/Alley Approach	Eighteen dollars and no cents per square yard	18.00
6" Drive Approach	Sixteen dollars and no cents per square yard	16.00
2' Curbface Walk	Two dollars and fifty cents per square foot	2.50
Dirt Backfill for Seed	Two dollars and no cents per ton	2.00
Seed, Mulch, Fertilizer	No dollars and forty cents per square yard	0.40
Asphalt Patching	No dollars and thirty cents per lineal foot	0.30
SUB TOTAL	Forty-seven thousand, two hundred and fifty-two dollars and forty cents	\$47,252.40

The Contractor hereby expressly agrees to perform all the work in the prosecution of the above described improvement according to the terms and conditions of Improvement Resolution No. 5961-82 the plans, profiles, specifications and the contractor's bid therefor on file in the office of the Department of Public Works of said City, which said resolution, profile, plans and specifications are made a part of this contract as fully and effectually as if copied herein at full length, (copies of which are attached hereto).

It is hereby agreed that no assignment of this contract shall be made without the written consent of the City; said Contractor hereby covenants and agrees that said improvement shall be finally

and in all respects completed on or before June 30, 1983 and the Contractor agrees to pay and give to the City, as liquidated damages, the sum of \$25.00 for each and every day after said date

_____, 19____ until said work is finally completed and ready for acceptance by the City. It being also understood that in event of any conflict between this contract and the specifications, that the former shall be considered to contain the intention of the parties hereto.

It is further agreed by and between said parties, that the acceptance of the work provided for in this contract, or the payment therefor, for the whole or a part, shall not constitute a waiver on the part of the City of any of the provisions of the contract, nor shall it release said Contractor, or the sureties upon its bond for the faithful performance thereof, nor shall the acceptance be even prima facie evidence of the performance of any provisions of such contract except to the extent of entitling said Contractor to receive the price therefor. It is further understood that the failure of the City to exercise its right of inspection or rejection of material and work, or the exercise of such right shall not in any sense be considered an acceptance of any part of said work or material.

The Contractor further contracts and agrees that in the prosecution of said work all proper skill and care will be exercised, that said party will properly and fully guard all excavations and dangerous places, and will use all due and proper precautions to prevent injury to any property, person and persons, what or whomsoever. That for and during the period of the making of such improvement, and the period for which the same is to be maintained and kept in repair by the Contractor, the City shall be saved harmless from any and all liability whatsoever growing out of any injury or damage to property or persons because of any neglect or fault of the said Contractor, its agents or employees, in the execution of this contract or any matter connected therewith or related thereto and to pay any judgment with costs which may be obtained against said City, growing out of any such injury or damage.

To each of the conditions and stipulations in this contract, the undersigned bind themselves, their successors and assigns.

IN WITNESS WHEREOF, we the foregoing named parties hereunto set our hands this _____

day of April 12, 1983

ATTEST:

Darryl J. Laems
Corporate Secretary

GAINES CONSTRUCTION

BY: Henry Gaines Jr.

ITS: President

Contractor, Party of the First Part.

City of Fort Wayne, By and Through:

[Signature]
[Signature]

ATTEST:

Daniel E. Kennedy
Secretary and Clerk

Its Board of Public Works and Mayor.

Contract for Improvement Resolution No. 5961-82 (Continued)

ALTERNATE (1)

Concrete Removal	Two dollars and no cents per square yard	2.00
Curb Removal	One dollar and no cents per lineal foot	1.00
4" Sidewalk	One dollar and forty cents per square foot	1.40
6" Drive Approach	Sixteen dollars and no cents per square yard	16.00
2' Curbface Walk	Two dollars and fifty cents per square foot	2.50
Dirt Backfill for Seed	Two dollars and no cents per ton	2.00
Seed, Mulch, Fertilizer	No dollars and forty cents per square yard	0.40
Asphalt Patching	No dollars and forty cents per lineal foot	0.40
SUB TOTAL	Eleven thousand, nine hundred and ninety-six dollars and forty cents	\$11,996.40
TOTAL	Fifty-nine thousand, two hundred and forty-eight dollars and eighty cents	\$59,248.80

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana that he has complied with SEctions 5, 68, 69 of the Workmen's Compensation Act, approved March 14, 1929, in accordance with Section 14 of the Compensation Act (Acts 1929, page 545, being I.C. 22-3-2-1 et. seq.).

A copy of General Ordinance No. G-34-78 (as amended) concerning discriminating in employment under municipal contracts, is attached and incorporated herein by reference.

PERFORMANCE AND GUARANTEE BOND

KNOW ALL MEN BY THESE PRESENTS, that we GAINES CONSTRUCTION
as Principal, and the State Auto Mutual Insurance Co.
Columbus, Ohio, a corporation organized under the laws of the
State of Ohio, and duly authorized to transact business in the
State of Indiana, as Surety, are held firmly bound unto the City of Fort Wayne,
Indiana, an Indiana Municipal Corporation in the sum of FIFTY-NINE THOUSAND,
TWO HUNDRED AND FORTY-EIGHT DOLLARS AND EIGHTY CENTS -----
(\$ 59,248.80-----), for the payment whereof well and truly to be made,
the Principal and Surety bind themselves, their heirs, executors, administrators,
successors and assigns, jointly and severally, firmly by these presents. The
condition of the above obligation is such that

WHEREAS, the Principal did on the 13th day of April, 1983,
enter into a contract with the City of Fort Wayne to construct

Improvement Resolution No. 5961-82

To improve by constructing curb and sidewalk as follows:

- (1) Francis - Both sides from Lewis on north to Hayden on south,
- (2) Hugh - Both sides from Francis on west to Harmar on east,

ALTERNATE (1)

Eliza - Both sides from Francis on west to Harmar on east.



at a cost of \$ 59,248.80-----, according to certain plans and specifications
prepared by or approved by the City.

WHEREAS, the grant of authority by City to so construct such improvement
provides:

1. That said improvement shall be completed according to said plans and specifications, and contractor shall warrant and guarantee all work, material, and conditions of the improvement for a period of three (3) years from the date of final acceptance in writing by the Owner;
2. There shall be filed with the City, within thirty (30) days after completion, a Completion Affidavit;
3. Said Principal is required to agree to make such adjustments, modifications, and repairs as required by the City within thirty (30) days after notice.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications.

NOW THEREFORE, if the principal shall faithfully perform all of the terms and conditions required of it by the contract and shall for three (3) years after acceptance of said improvement by City warrant and guarantee said improvement and shall indemnify the City for all loss that City may sustain by reason of the Principal's failure to comply with any of the terms of the authorization, then this obligation shall be void, otherwise it shall remain in full force and effect.

GAINES CONSTRUCTION

(Contractor)

BY: Henry Gaines

Henry Gaines

ITS: Pres.

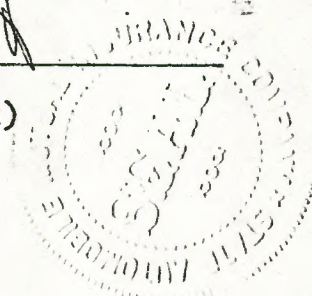
ATTEST:

Darryl Gaines
Secretary
(Title)

State Auto Mutual Insurance Co.
Surety

*BY: [Signature]
Authorized Agent
(Attorney-in-Fact)

*If signed by an agent, power of attorney must be attached



PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

----- GAINES CONSTRUCTION -----
(Name of Contractor)

----- 217 W. Washington Center Road, Fort Wayne, Indiana 46825 -----
(Address)

a _____ Corporation, hereinafter called Principal,
(Corporation, Partnership or Individual)

and _____ State Auto Mutual Insurance Co., _____ Columbus, Ohio
(Name of Surety)

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held and firmly bound unto the City of Fort Wayne, an Indiana Municipal Corporation in the penal sum of FIFTY-NINE THOUSAND, TWO HUNDRED AND FORTY-EIGHT DOLLARS AND EIGHTY CENTS -----

for the payment whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the 13th day of April, 1983, for the construction of:

Improvement Resolution No. 5961-82

To improve by constructing curb and sidewalk as follows:

- (1) Francis - Both sides from Lewis on north to Hayden on south,
- (2) Hugh - Both sides from Francis on west to Harmar on east,

ALTERNATE (1)

Eliza - Both sides from Francis on west to Harmar on east.

at a cost of FIFTY-NINE THOUSAND, TWO HUNDRED AND FORTY-EIGHT DOLLARS AND EIGHTY CENTS -----
(\$ 59,248.80-----), all according to Fort Wayne Street Engineering Department plans and specifications.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

WHEREAS, no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subconstructor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed in three counter-
(number)
parts, each one of which shall be deemed an original, this 13th day of
April, 19 83.

(SEAL)

ATTEST:

Darrell Gaines
(Principal) Secretary

GAINES CONSTRUCTION
Principal
BY Henry Gaines
Henry Gaines
Pres.
(Title)
217 W. Washington Center Rd.
(Address)

Eileen Farley
Witness as to Principal
1666 Spy Run Ave.
(Address)
Fort Wayne, Indiana

State Auto Mutual Insurance Co.
Surety
BY [Signature]
Attorney-in-Fact
(Authorized Agent)
1666 Spy Run Ave.
Fort Wayne, Indiana
(Address)

Eileen Farley
Witness as to Surety
1666 Spy Run Ave.
(Address)
Fort Wayne, Indiana

NOTE: Date of Bond must not be prior to date of Contract.
If Contractor is Partnership, all partners should execute bond.

BILL NO. S-83-04-28

REPORT OF THE COMMITTEE ON PUBLIC WORKS

WE, YOUR COMMITTEE ON Public Works TO WHOM WAS REFERRED AN
ORDINANCE approving a Contract by the City of Fort Wayne by and through its
Board of Public Works and Gaines Construction, for constructing curbs and
sidewalks for Improvement Resoltuion #5961-82

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS.

SAMUEL J. TALARICO, CHAIRMAN

VICTURE L. SCRUGGS, VICE CHAIRMAN

MARK E. GIAQUINTA

PAUL M. BURNS

ROY J. SCHOMBURG

Samuel J. Talarico

Victure L. Scruggs

Mark E. Giaquinta

Paul M. Burns

R. J. Schomburg

Concurred in 5-10-83
e. e. W. Schomburg

DIGEST SHEET

6255

S-83-04-28

TITLE OF ORDINANCE Contract for Curb & Sidewalk Improvement Res. #5961-82DEPARTMENT REQUESTING ORDINANCE Board of Public WorksSYNOPSIS OF ORDINANCE This is an ordinance for Improvement Res. #5961-82

for constructing curb and sidewalks as follows: (1) Francis - Both sides from
Lewis on north to Hayden on south, (2) Hugh - both sides from Francis on west
to Harmar on east, ALTERNATE: (1) Eliza - Both sides from Francis on west to Harmar
on east. Contractor is Gaines Construction.

EFFECT OF PASSAGE Improvement of curbs & sidewalks in the above mentioned area.

EFFECT OF NON-PASSAGE _____

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) \$59,248.80.

ASSIGNED TO COMMITTEE (PRESIDENT) _____